

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT  
OF NEW YORK

Kelly Price

(List the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

15-CV-05871

MOTION TO PROCEED IN

FORMA PAUPERIS ON APPEAL

DETECTIVE LINDA SIMMONS Individually,  
and as an employee of the New York City Police  
Department, ADA MARIA STROHBEHN and  
ADA KENYA WELLS Individually,  
and as employees of the New York County  
District Attorney's Office, THE CITY OF NEW YORK,  
Deputy DA Audrey Moore, ADA Larry Newman, ADA  
Laura Higgins nee Richendorfer, DA Cyrus Vance Jr.,  
as employees of the New York County District  
Attorney's Office, Inspector Obe of the New York City  
Police Department, in her capacity as an employee  
of the New York City Police Department,  
Rose Pierre-Louis in her capacity as the Former  
Commissioner of Domestic Violence of the  
City of New York, PO Matthew Winters, individually  
And in his capacity as an employee of the New York City  
Police Department, Jane and/or John Doe Operator  
of Twitter account @NYPD28pct, Jane and/or John Doe Operator

of Twitter account @NYCagainstAbuset, Jane and/or John Doe Operator  
of Twitter account @RPLNYC,

(List the full name(s) of the defendant(s)/respondent(s).)

I move under Federal Rule of Appellate Procedure 24(a)(1) for leave to proceed *in forma pauperis* on appeal. This motion is supported by the attached affidavit.

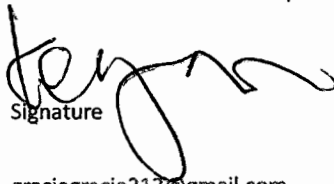
Dated October 27, 2016

Price, Kelly

Name (Last, First, MI)

534 W 187th st #7 NY NY 10033

Address

  
Signature

graciegracie212@gmail.com

E-mail Address (if available)

Rev. 12/23/13

646.676.1940

City Telephone Number

in the above-named case appeal to the United States Court of Appeals  
for the Second Circuit from the "judgment **X order** entered on:

September 27, 2016 (date that judgment or order was entered on docket)

that:

- 1. The order denying the complaint filed on 9/16/2016 as the operative pleading/document the case will proceed with and asserting the complaint filed on September 2, 2016 be the operative pleading/document the case will proceed with reversed.
- 2. On July 26, 2016 Hon Judge Preska graciously ordered a third amended complaint be written and filed within 30 days. In her orders she advised, among other instructions, for me to examine the case law surrounding Dwares, and from there I learned about State Create Danger, a concept I had never been introduced to before. I found Okin v Cornwell on Hudson and realized that precisely what happened to Ms. Okin had happened to me and following that the heavy work of my rewrite involved me articulating how many events detailed in my specific chronology of circumstances were acts of of State Created Danger against me in violation of my Constitutional rights..

- 3. On August 25, 2016 I wrote the court requesting my complaint be accepted on September 2, 2016 as I had not received Hon. Judge Preska's order in the mail until approximately a week after her order and I needed the full 30 days to dispatch the work as I was grappling with the enormity of the task at hand.
- 4. Hon Preska approved that motion by order but I did not receive it in the mail until late in the first week of September.
- 5. On or about September 1, 2016 I wrote a motion to Hon. Preska again requesting a second extension for the deadline of the third amended complaint. In the intervening week I had discovered an arrest and charge from October 2010 was still lingering, un-adjudicated, against me in Supreme Court of NY due to an error on the behalf of the Manhattan District Attorney's Office. I requested a further extension of two weeks to have the charge adjudicated and retrieve documentation that the proceedings terminated in my favor (a predicate for bringing action).
- 6. I did not know if Hon. Preska would approve my second request for extension of the third re-write, although I had a hunch she would because I was told that usually up to three re-write extensions are approved, so I was obligated to turn in a version of my complaint regardless before receiving her orders approving my motions for deadline extension. If I didn't turn something in, albeit it incomplete and in part factually incorrect regarding the 10/10 arrest I risk complete dismissal if Hon. Preska did risked approve my deadline request.
- 7. Because I could not risk complete dismissal I turned in the work I had managed to finish and labelled this Complaint version #3 filed at 11:59 p.m. on September 1, 2016.
- 8. On or about September 2, 2016 Hon. Judge Preska approved my second request for a deadline extension to turn in my third re-write on September 15, 2016 (sept 16th with the 24 hour grace period taken into consideration.)
- 9. On or about September 16th 2016 at 11:59 p.m. I filed my "Fourth Amended Complaint." I didn't know how to label the version I as approved to turn in on September 15, 2016: I should have labeled it "2<sup>nd</sup> Version of 3<sup>rd</sup> Amended Complaint" or just "FINAL Third Amended Complaint" but Instead I made an HUGE mistake and labeled it "Fourth Amended Complaint."
- 10. The reason I requested the extension, and was approved, was that I needed to wait for the 10/2010 charges against me to be dismissed. The version of my complaint that is now the operative document does not include these charges or the fuller articulated actions regarding State Created Danger and Conspiracy et al that I worked on as per Hon Judge Preska's instructions. I found for the first time in the writing of the complaint I turned in on 9/16 that I understood and was able to articulate many torts that I was unable to define in previous attempts to articulate constitutional wrongdoings that were levied against me that I describe in detail chronologically in my filing.

Interest and dividends	\$	\$	\$	\$
Gifts / Grants /	\$ 200	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$
Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$ 140	\$	\$	\$
Other (specify): Food Stamps	\$ 190	\$	\$	\$
Total monthly income: Rental Assistance	\$ 215 <sup>00</sup>	\$ 0	\$ 0	\$ 0

Internship Stipend 100  
730<sup>20</sup> mo

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
NOW NYC	130 W 25th St 3rd Fl New York, NY 10001	5/20/16 - 8/20/16	\$ 0
Urban Justice Center	40 Rector St. 9th Fl New York, NY 10006	10/15 - 5/16	\$ 300
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ 0

*Below, state any money you or your spouse have in bank accounts or in any other financial institution.*

Financial Institution	Type of Account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

*If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.*

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$	(Value) \$	(Value) \$
		Make and year:
		Model:
		Registration #:

Motor vehicle #2	Other assets	Other assets
(Value) \$	(Value) \$	(Value) \$
Make and year:		
Model:		
Registration #:		

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
	\$	\$
	\$	\$
	\$	\$
	\$	\$

7. State the persons who rely on you or your spouse for support.

Name [or, if a minor (i.e., underage), initials only]	Relationship	Age
Marcel Nieves	Orphaned child I help	19

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (including lot rented for mobile home) Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No	\$ 215	\$
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 0	\$ 0
Home maintenance (repairs and upkeep)	\$	\$
Food	\$ 400	\$
Clothing	\$ 0	\$
Laundry and dry-cleaning	\$ 20	\$
Medical and dental expenses	\$ 20	\$

Transportation (not including motor vehicle payments)	\$ 20	\$
Recreation, entertainment, newspapers, magazines, etc.	\$ 20	\$
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$	\$
Other:	\$	\$
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$	\$
Installment payments		
Motor Vehicle:	\$	\$
Credit card (name):	\$	\$
Department store (name):	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$	\$
Other (specify):	\$	\$
<b>Total monthly expenses:</b>	\$ 0 795 <sup>00</sup>	\$ 0

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes

☒ No

If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit? ☒ Yes ☐ No

If yes, how much? \$

— Copies — 20<sup>00</sup>/mo  
 — Paper supplies — 25 /mo  
 — Transportation to courthouse — 30 /mo  
 — Internet access — 30 /mo



11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

Before my false arrests, unlawful imprisonment, & malicious prosecutions I lived a financially independent, happy life. I am unable to support myself. A now b/c my credibility has been ruined & my mental health diagnosis prohibits me from fully integrating into society & the work force.

12. Identify the city and state of your legal residence.

City New York State NY

Your daytime phone number: 646 676 1940

Your age: 45 Your years of schooling: 27

Last four digits of your social-security number: 0356